

## **907 KAR 1:120. Health insuring organization and prepaid health plan services.**

RELATES TO: KRS 205.520, 205.560

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 42 C.F.R. 431 Subpart L, 42 U.S.C. 1396a, b, d, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services. The Cabinet for Health and Family Services has responsibility to administer the program of Medical Assistance. KRS 205.520(3) and 205.560 empower the cabinet, by administrative regulation, to designate and limit the scope of medical care which will be provided through the Medicaid Program to Kentucky's indigent citizenry. This administrative regulation sets forth the coverage provisions which apply with regard to eligible recipients receiving medical assistance services pursuant to contracts between the cabinet and health insuring organizations (HIO's) or prepaid health plans (PHP's).

Section 1. Participation Requirements. Each health insuring organization (HIO) or prepaid health plan (PHP) desiring to participate shall meet the following requirements:

(1) An application for participation shall be made to the cabinet using the procedures specified by the Commissioner, Department for Medicaid Services. A vendor number shall be assigned to the HIO or PHP by the department when participation status is achieved by award of a contract; the contract shall be pursuant to, and designed to be in compliance with, applicable federal regulations. The terms "health insuring organization" and "prepaid health plan" shall have the same meanings shown in 42 CFR 431 Subpart L;

(2) The HIO or PHP shall submit a comprehensive plan and proposed contract for providing services to all or a described class of recipients of Medicaid of a defined geographic area of the Commonwealth, through contracts with appropriately licensed providers of health services;

(3) The cabinet shall review the plan and proposed contract, and if in the cabinet's opinion services are offered at a lower cost than prevailing Medicaid vendor costs for the designated geographic area without any reduction of services or decrease in availability of services to recipients, the cabinet may submit to the federal Department of Health and Human Services a request for appropriate waivers, if any are needed, to obtain authorization for implementation of the proposed plan;

(4) Upon approval of the necessary waivers, if any, the cabinet may award a vendor contract to the HIO or PHP, or any qualifying intervening organization which has offered the same services at lower cost;

(5) The HIO or PHP shall enroll all eligible recipients identified to it, arrange for the provision of the Medicaid services specified in the contract, and directly reimburse participating providers and subcontractors for services provided in accordance with the terms and conditions specified in the contract;

(6) The cabinet and the HIO or PHP shall be responsible for acting in accordance with the terms of the contract. If the contract is terminated, the cabinet shall provide covered Medicaid services, and make reimbursement for those services, in the usual manner provided for by administrative regulation; and

(7) The HIO or PHP shall arrange for the provision of covered services to enrollees which are of the same quality as those services provided to other patients of those health care providers participating in the program. Participating health care providers shall meet reasonable standards which at a minimum are equal to the Kentucky Medicaid Program standards. Health care providers shall be subject to removal from the program in accordance with the physician contract.

Section 2. Covered Services. The following named services shall be provided by the HIO or PHP

to eligible recipients identified by the cabinet and enrolled by the HIO or PHP in its service delivery system, and shall not be provided to those recipients by the cabinet in its usual program of Medicaid in the geographic area covered by the HIO or PHP. If the service is not obtained in the manner prescribed in this administrative regulation, no payment shall be made pursuant to this administrative regulation to the extent the service is obtained in the covered area or contiguous counties in Kentucky and adjoining states, and the service shall be considered uncovered in these circumstances. If services are received in other counties, the Medicaid program shall cover the services in the usual manner (with appropriate adjustments in payments to the HIO or PHP).

(1) Hospital inpatient services shall be provided to the same extent the services are available to the general Medicaid recipient, except that up to an additional seven (7) days per admission may be provided at the HIO's or PHP's expense; hospital inpatient services shall be prior authorized by the HIO or PHP.

(2) Hospital outpatient services shall be provided to the same extent the services are available to the general Medicaid recipient. Hospital outpatient services shall be prior authorized; however, bona fide emergency services, if appropriate, need not be prior authorized.

(3) Primary physician services, defined as the medical services of a general practitioner, family practitioner, general internist, pediatrician, and physician clinic (limited to the four (4) preceding physician classifications), shall be provided to the same extent the services are available to the general Medicaid recipient. Obstetrical services meeting criteria specified by the cabinet may be considered primary physician services.

(4) Other physician services (nonprimary physician services) shall be provided to the same extent the services are available to the general Medicaid recipient; other physician services shall be prior authorized by the HIO or PHP.

(5) Home health services shall be provided to the same extent the services are available to the general Medicaid recipient; home health services shall be prior authorized by the HIO or PHP.

(6) Other Medicaid covered services may be provided by agreement between the cabinet and the HIO or PHP.

(7) Other related services not covered by Medicaid may be provided by the HIO or PHP at the HIO or PHP's cost; no responsibility for provision of the services shall accrue to the cabinet.

Section 3. Determination of Eligibility and Assignment of Primary Health Provider. (1) Medicaid eligibility shall be determined in accordance with appropriate Kentucky Administrative Regulations.

(2) Recipients shall be offered their choice of HIO or PHP primary health provider from a list provided by the HIO or PHP to the state. The recipient shall then be enrolled as the responsibility of the provider selected. Those recipients who do not make a choice shall be assigned to a provider from the HIO or PHP provided list on a geographic basis to the extent reasonable. No provider shall be assigned less than 300 recipients (or, for clinics, 400 recipients) nor more than 1,800 recipients, and the cabinet reserves the right to assign or reassign recipients to ensure the upper limit is not exceeded. Within this context, "provider" means participating physician, physician clinic, primary care center, ambulatory care center, and access unit, with the upper limit applicable on an individual physician basis for each physician who is associated with the provider. The 1,800 enrollees per physician maximum may be exceeded if the physician may demonstrate that quality care will be delivered to all enrollees. The minimum of 300 enrollees per physician can be waived by HIO or PHP if it is determined by the HIO or PHP that it is in the best interest of the HIO or PHP program.

Section 4. Appeals. Each applicant or recipient covered under this administrative regulation shall retain all rights of appeal to the cabinet specified in 904 KAR 2:055, Hearings and appeals.

Section 5. Limitations. This administrative regulation shall not be applicable with regard to any eli-

gible resident of the area who is not within the covered class specified. This administrative regulation shall not be applicable with regard to any covered Medicaid service not specified in Section 2 of this administrative regulation for any eligible recipient, even if within the class. (9 Ky.R. 1355; eff. 7-6-1983; Recodified from 904 KAR 1:120, 5-2-1986; 18 Ky.R. 1635; eff. 1-10-1992.)